

**CRIMINAL PROCEDURE I  
SPRING SEMESTER 2020  
EDMUND W. SEARBY**

**January Schedule**

**I. Introduction**

**January 13, 2020** - *Lecture*: overview of course and plan for classes; background on criminal investigations and police practice; sources of limits on police power; the Bill of Rights and the Warren Court's "Criminal Procedure Revolution;" competing interests underlying expanding and contracting criminal procedure guarantees.

Lead Students: N/A

Reading: *Learning Criminal Procedure*, Simmons and Hutchins, Second Edition, West 2019, ("*Learning Crim. Pro.*") Chapters I (pp. 1-8), II (pp. 19-21), and III.

**II. The Fourth Amendment**

**a. Scope of application of the Fourth Amendment**

**January 15, 2020** - *dialogue*: What interests are protected under the Fourth Amendment? When is a search or surveillance subject to the Fourth Amendment? What is a reasonable expectation of privacy?

Lead Students: TBD.

Reading: *Learning Crim. Pro.*, Chapter 6, "When is a search a 'Fourth Amendment search?'" Cases: *Katz v. United States*, 389 U.S. 347 (1967); *United States v. Jones*, 132 S.Ct. 945 (2012).

**January 21, 2020** - *dialogue*: Reasonable expectations of privacy continued and application of new technologies (and old).

Lead Students: TBD.

Reading: *Learning Crim. Pro.*, Chapter 7, "The Fourth Amendment and New Technologies." Cases: *Kyllo v. United States*, 533 U.S. 27 (2001); *Illinois v. Caballes*, 543 U.S. 405 (2005); *Carpenter v. United States*, 138 S. Ct. 2206 (2018).

**January 22, 2020** - dialogue: Further issues regarding the application of the Fourth Amendment. Who is a state actor? Third parties, secret agents, and information sharing. Distinguishing non-content from substantive information.

Lead Students: TBD.

Reading: *Learning Crim. Pro.*, Chapter 4, When Does The Fourth Amendment Apply? (Introduction and policy, 41-43 and section (C): State Action Requirement (pp. 45-50) (skip section on who is protected)), and Chapter 8, The Fourth Amendment and Third Parties. Case: *Hoffa v. United States*, 385 U.S. 293 (1966); *Smith v. Maryland*, 442 U.S. 735 (1979); *United States v. Warshak*, 631 F. 3d 266 (6<sup>th</sup> Cir. 2010).

**January 27, 2020** - Lecture: Who is covered by the Fourth Amendment and extraterritorial application. Review of material covered to date. Introduction to the warrant clause and search warrant procedure.

Reading: *Learning Crim. Pro.*, Chapter 4, Who is Protected?, 43-45, and Chapter 11, Issuing and Executing a Warrant, p. 267-280 (stop at Challenging a Warrant).

### **b. The Warrant Requirement and the Particularity Clause.**

**January 29, 2020** - Dialogue on (1) probable cause requirement and *Gates* totality of the circumstances test and (2) the particularity requirement and execution of search warrants.

Lead Students: TBD.

Reading: *Learning Crim. Pro.*, Chapter 10, Probable Cause) and Chapter 11, Issuing and Executing a Warrant,

p. 267-280 (stop at Challenging a Warrant). Cases:  
*Illinois v. Gates*, 462 U.S. 213 (1983); *United States*  
*v. Heldt*, 668 F. 2d 1238 (D.C. Cir. 1981) (search and  
seizure issues only).